

NOTICE OF PROPOSED ACTION

TITLE 14. NATURAL RESOURCES DIVISION 6. RESOURCES AGENCY CHAPTER 2. OPEN SPACE SUBVENTION ACT

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Chapter 1, Division 6, Title 14 of the CCR the Department will propose permanent regulations, after the consideration of all comments, objections or recommendations. Proposed amendments to the CCR are necessary to update code sections and to clarify requirements for open space subvention application reports.

The proposed actions, which are indicated in underlined text for additions and strikethrough text for deletions, are necessary to:

1. Amend "Foreword" to include the Director of the Department of Conservation as a responsible party relative to program administration and to indicate that the Director is the delegated contact for information.
2. Amend sections 14100, 14101, 14113, and 14113(a)(d) to remove obsolete code references, add current code references and make nonsubstantive revisions.
3. Amend section 14102 to add the definition for "prime agricultural land" and "Director" to the list of definitions.
4. Add section 14110.1(a)(b)(c) and (d) to provide criteria for county filing of application reports for contracted land within city jurisdiction.
5. Amend section 14111(b) to remove an obsolete reference, add a current code reference, and add language clarifying how nonprime lands are identified for subvention payment under section 14112(c) criteria.
6. Amend section 14111(c) to clarify that the required map be prepared according to specified standards beginning with a date certain.
7. Add section 14111(c)(1)(A)(B)(C)(D) to clarify the type of information to be included on the annual map which is required by statute to be submitted with the subvention application report.
8. Add section 14111(c)(2)(A)(B)(C) to specify the production standards to delineate agricultural preserves and parcel boundaries for map preparation.
9. Add section 14111(c)(3)(A)(B)(C) to clarify the production standards required when local governments use a computer based mapping system to produce the required annual map.
10. Add section 14111(c)(4)(A)(B)(C)(D) to clarify the production standards required when local governments do not use a computer based mapping system to produce the required annual map.

11. Add section 14111(c)(5) to provide mapping technical assistance and consultation by the Department of Conservation to a local government upon request.
12. Add section 14111(c)(6)(A)(B) to provide a method to incorporate a local government's map, which meets the specified criteria, into the Department's computer-based mapping system.
13. Add section 14111(e) to provide that a local government's rules for administration of agricultural preserves be submitted with the subvention application if changed or not previously filed with the Secretary of Resources.
14. Add section 14111(f) to provide that the open space element and map of open space lands be submitted with the subvention application.
15. Add section 14111(g)(1)(2)(3)(4)(5) to identify that contract terminations be designated by type, and for contract cancellations and public acquisitions the anticipated subsequent use of the land.
16. Add section 14111(h) to ensure that acreage starting nonrenewal since the previous fiscal year is accounted for on the application form.
17. Add section 14111(i) to provide that a list of all annexed lands, and the annexing city, be included in the subvention application report.
18. Amend section 14112(a) to add a current code reference.
19. Amend section 14112(c) to remove an obsolete reference.
20. Amend section 14112(d) to clarify the time frame required for defining prime agricultural land.
21. Amend section 14113 to delete an obsolete reference, add a current reference and delete the reference to an obsolete application form.
22. Amend section 14113(a) to delete an obsolete reference and its requirements.
23. Amend section 14113(b) to change to 14113(a) and add language clarifying that the parcel size requirements apply to computations for subvention purposes and do not affect minimum legal size requirements of specified code sections.
24. Amend section 14113(c) to change to 14113(b) and add subsections (1)(2)(3)(4)(5) to identify types of land not eligible for payment (i.e. homesites, nonrenewal, easements under the Open Space Easement Act of 1974, substandard parcel size, and valued under Revenue and Taxation Code Section 110.1).
25. Amend section 14113(d) to delete a reference to code section repealed in 1977.
26. Amend section 14114 to add the Director of the Department of Conservation and the State Board of Equalization to the to the list of agencies to which supporting documents for subvention entitlement, must be made available. The time frame

for document records retention is changed from five to six years. Time of retention for other records is defined.

27. Amend section 14116 to provide that a governing body's protest of subvention denial must be made in writing within a 60 day period following a denial of subvention payment.
28. Amend section 14117 to add (a) to define that entitlement may be certified for payment on a monthly basis; (b) to identify the basis for certifying application reports; (c) to identify the criteria for reducing the total subvention payment and the timeframes the governing body may appeal a payment reduction; and (d) identify the date after which appeal of subvention payment reduction may not be made, or an application certified except under certain criteria.
29. Amend section 14118 to add (a) to clarify the procedure that may be undertaken by the Secretary to recover subvention overpayments and (b) to identify the authority to deduct cancellation fees and provide criteria for assessing an interest penalty.
30. Add section 14119(a) to provide a process for notification of violation of Williamson Act provisions to a city or county.
31. Add section 14119(b) to establish criteria for determining the amount of ineligibility for subvention payment if an enforceable restriction is violated as being equal to a contract cancellation fee.
32. Add section 14119(c) to clarify that the section does not limit the authority to otherwise pursue enforcement actions.
33. Amend section 14125 to provide reference to pertinent code sections for waiver of cancellation fee, or extension of time to pay the fee.
34. Amend section 14125(b) to provide that the map to be submitted include a parcel's assessor's parcel number.
35. Amend section 14125(e) to provide that the amount of a cancellation or abandonment fee is included along with information on valuation determination.
36. Amend 14125(f) to provide that the narrative defining the basis for cancellation or abandonment include findings and substantial evidence supporting such findings.

Authority to promulgate these regulations is contained in Government Code Section 65570.

INFORMATION IS AVAILABLE UPON REQUEST. Information upon which the proposed amendments are based including: the text of the proposed amendments to the CCR; the Initial Statement of Reasons which explains the justification for the proposed amended CCR , and other information. This information is available to the public for review during normal business hours. Please contact John Amodio, Chief, Division of Land Resource Protection, at (916) 324-0850 to review this file.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m., June 14, 1999. Additionally, written comments which are received by the Department after the close of the public comments period will not be responded to in the rulemaking file. Submit your written comments to, John Amodio, Chief, Division of Land Resource Protection, Open Space Subvention Act Regulations, Department of Conservation, 801 "K" Street, MS 13-70, Sacramento, CA 95814.

PUBLIC HEARING SCHEDULED. The hearing will begin promptly at 10:00 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. The conference room is wheelchair accessible. The public hearing to record public comments on the proposed amended regulations is scheduled for:

June 14, 1999

10:00 a.m.

Department of Conservation

Renaissance Tower

801 "K" Street, 20th Floor Conference Room

Sacramento, California 95814

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE. Following the public hearing, the Department of Conservation may adopt the regulations without further notice. However, should the Department choose to substantially alter or revise the proposed regulatory action, a copy of the amended proposed regulations will be available for public comment for at least 15 days. A revised Notice, or a 15 day Renotice, and an amended copy of the text of the regulations will be sent to all persons who have provided their names and addresses to the Department, were in attendance at the public hearing, and submitted written or oral comments, or requested notification of the availability of such revisions.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

CALIFORNIA LAND CONSERVATION ACT

The California Land Conservation Act (which is commonly known as the Williamson Act) was enacted in 1965 by the California Legislature. The Williamson Act enables local governments and landowners to mutually enter into contracts restricting the use of land to agricultural and open space purposes for an initial term of ten years. Contracts are renewed annually, unless landowners apply to terminate the contract through the nonrenewal process or cancellation.

The Act allows local governments to assess contracted land based upon the income-producing value of the land, which reduces the taxes paid on the land. Because local

governments forego tax revenues when land is placed under contract, the State pays a yearly subvention to local governments to partially offset this tax loss.

OPEN SPACE SUBVENTION ACT

The Open Space Subvention Act was enacted in 1971. In order to receive subvention payments, a local government participating in the Williamson Act must annually submit an application defining the types and amounts of acreage eligible for subvention payments. The proposed amendments to the regulations will update and clarify the requirements which local governments must meet in order to apply for subvention payments. The regulations also provide for the adjustment of subventions due to application errors or program violations.

AUTHORITY

Government Code Section 65570.

REFERENCE

California Code of Regulations, Title 14, Division 6, Foreword and sections 14100, 14101, 14102, 14110.1, 14111, 14112, 14113, 14114, 14116, 14117, 14118, 14119, and 14125.

LOCAL MANDATE

Because the Williamson Act and Open Space Subvention Act are voluntary programs, the Department has determined that the proposed action imposes no mandate upon local agencies or school districts and therefore requires no reimbursement pursuant to section 17561 of the Government Code.

COST ESTIMATES

The action proposed does not impose any cost or savings to any State agency. Based on information collected from several counties who initiated nonrenewal to remove substandard size prime and nonprime acreage from subvention eligibility, about \$276,000 in subvention payments would be eliminated out of a total of \$35,000,000 paid yearly. Therefore, the Department has determined that this proposed action would cause no significant cost or savings to local agencies or to school districts. Reimbursement required under Government Code section 17561 is not required. The proposal does not impose any other nondiscretionary cost or savings upon local agencies nor does it affect federal funding to the State. Finally, the Department has determined that the proposed action will have no effect on housing costs.

ALTERNATIVE STATEMENT

The Department has determined that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

ASSESSMENT OF POTENTIAL ADVERSE
ECONOMIC IMPACT ON BUSINESS/PRIVATE PERSONS

The Open Space Subvention Act regulations provide standards for counties and cities, participating in the voluntary Williamson Act program, to follow in order to apply for annual state subvention payments. Therefore, the Department has determined that these proposed regulations will have no significant adverse economic impact on businesses or individuals, including the ability of California businesses to compete with businesses in other states. The proposed regulations will not have an impact on the expansion, elimination or creation of California jobs.

PLAIN ENGLISH DETERMINATION

The Department has determined that the proposed regulations will not affect small business and are written in plain English.

CALIFORNIA SOCIOECONOMIC IMPACT STATEMENT

The Department has determined that the proposed action will not have an impact on the expansion, elimination, or creation of California jobs in the agricultural community.

FEDERAL REGULATION/STATUTE IMPACT

The proposed regulations do not affect any federal regulations or statutes. The Department's review of the Open Space Subvention Act and the Code of Federal Regulations indicates no related similarities or differences.

ASSESSMENT REGARDING THE CREATION
OR ELIMINATION OF JOBS IN CALIFORNIA

The Department has determined that the adoption of these regulations will neither: (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of business currently doing business within California.